

IN THE UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION AT DAYTON

GINNY M. WHITLEY, ET AL., :
 :
Plaintiff, : Case No. 3:05-cv-290
 :
-vs- : Chief Magistrate Judge Michael R. Merz
 :
LOWE'S HOME IMPROVEMENT :
CENTER, ET AL. :
 :
Defendant.

CONDITIONAL DISMISSAL

The Court having been advised that the above matter has been settled, IT IS ORDERED that this action (including all claims by all parties) is hereby DISMISSED WITH PREJUDICE, provided that any of the parties may, upon good cause shown not later than October 17, 2006, reopen the action if settlement is not consummated. The parties may substitute a judgment entry contemplated by the settlement agreement upon approval of the Court. Parties intending to preserve this Court's jurisdiction to enforce the settlement should be aware of *Kokkonen v. Guardian Life Ins. Co. Of America*, 511 U.S. 375, 114 S. Ct. 1673, 128 L.Ed.2d 391 (1994), and incorporate appropriate language in any substituted judgment entry.

This Court explicitly retains jurisdiction to enforce the settlement agreement reached by the parties, on motion or *sua sponte*.

Each party shall bear its own costs.

August 18, 2006.

s/ Michael R. Merz
Chief United States Magistrate Judge